

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

**CARL BRUCE FANNING and BRONDENA
FANNING,**)

Plaintiffs,)

v.)

**NATIONAL CARRIERS; BRUCE NORMAN,
JR., and ALLSTATE INSURANCE
COMPANY, INC.**)

Defendants.)

CASE NO.: 2:05cv1121-C

NOTICE OF REMOVAL

COME NOW National Carriers, Inc., and Bruce Norman, Jr., ("Defendants"), defendants in the above-styled cause, and pursuant to 28 U.S.C. §1441, file this Notice of Removal of this cause from the Circuit Court of Montgomery County, Alabama, to the United States District Court for the Middle District of Alabama, Northern Division.

As grounds for removal, the Defendants represent to the Court as follows:

1. This Court has jurisdiction of this cause pursuant to 28 U.S.C. §1332. Jurisdiction is based upon diversity of citizenship and amount in controversy. Defendant National Carriers, Inc., is a foreign corporation, being incorporated in the state of Kansas and having its principal place of business in Liberal, Kansas. (See, attached copy of Corporate Details from the Office of the Secretary of State for the State of Kansas, attached hereto as Exhibit "A"). Defendant Bruce Norman, Jr., is an individual residing in Oklahoma City, Oklahoma. (See, paragraph 4 of the Plaintiffs' Complaint). Defendant Allstate Insurance Company is an foreign corporation, incorporated in the State of Illinois and with its principle place of business in Chicago, Illinois.

(See, attached copy of Corporate Details from the Office of the Secretary of State for the State of Alabama, attached hereto as Exhibit "B").

2. Plaintiffs are individual persons And husband and wife) residing in the City of Montgomery, in the State of Alabama.

3. Upon information and belief, the amount in controversy, exclusive of interest and costs, exceeds Seventy-Five Thousand Dollars (\$75,000.00).

4. Plaintiffs filed this action against the defendants on October 24, 2005 in the Circuit Court of Montgomery County, Alabama, a copy of the summons and complaint is attached hereto as Exhibit "C". The Complaint was served upon the Defendant National Carriers on October 31, 2005.

5. Pursuant to 28 U.S.C. § 1332(a)(1), this Court has original subject matter jurisdiction over this cause.

6. The removal of this cause to this Court is authorized and proper pursuant to 28 U.S.C. § 1441(a).

7. This removal is filed within 30 days of service of the complaint upon the Defendants, and is therefore timely under 28 U.S.C. § 1446(b).


8. Venue is proper herein pursuant to 28 U.S.C. § 1391(a).

9. Pursuant to 28 U.S.C. § 1446(d), Defendants have given written notice of the filing of this Notice of Removal to counsel for the plaintiffs. The Defendants have also filed a copy of said notice with the Clerk of the Circuit Court of Montgomery County, Alabama. See Exhibits "D" and "E".

WHEREFORE, THE ABOVE PREMISES HAVING BEEN CONSIDERED, the Defendants request this Court to make and enter the necessary and proper orders to effectuate a

removal of this cause from the Circuit Court of Montgomery County, Alabama, to the United States District Court for the Middle District of Alabama, Northern Division, and that no further or other proceedings shall be had with respect to this cause in the Circuit Court for Montgomery County, Alabama.

Dated this the 22nd day of November, 2005.




ROBERT C. BLACK, JR. (BLA 063)
Attorney for Defendants
National Carriers, Inc.
And Bruce Norman, Jr.

OF COUNSEL:

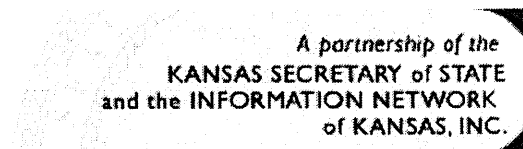
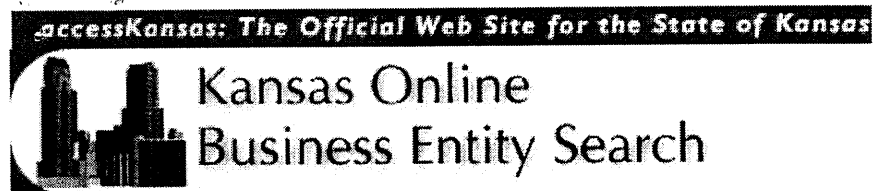
HILL, HILL, CARTER,
FRANCO, COLE & BLACK, P.C.
425 SOUTH PERRY STREET
POST OFFICE BOX 116
MONTGOMERY, ALABAMA 36101-0116
(334) 834-7600
(334) 832-7419 (telecopier)

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served upon Jere L. Beasley, Esq., and Julia A. Beasley, Esq., BEASLEY, ALLEN CROW, METHVIN, PORTIS & MILES, P.C., Post Office Box 4160, Montgomery, Alabama 36103-4160, by placing a copy of the same in the United States Mail, postage pre-paid and properly addressed on this the 22nd day of November, 2005.



OF COUNSEL



Business Entity Search

Kansas Secretary of State Business Entity Search

Helpful Hints

Business Entity ID Number: 0058917

Privacy Statement

Certificate of Good Standing

Contact Info

Letter of Good Standing

< KSOS Web site
< Kansas Web site

NATIONAL CARRIERS, INC.

1501 E. 8TH ST.
LIBERAL, KS 67901

Close Corp [N]
Tax Year End [08]
Date of Incorporation [06/28/1968]
Last Correct Annual Report [08/2004]
Next Annual Report Due Date [12/15/2005]
Extension [00/00/0000]
Forfeiture [03/15/2006]
Expiration [12/31/9999]
State/Country Formation [KS]

Resident Agent

THE CORPORATION COMPANY, INC.

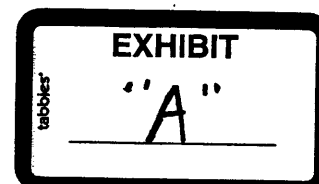
515 SOUTH KANSAS AVENUE
TOPEKA, KS 66603-0000
County: SN

Business Entity Type

DOM: FOR PROFIT CORPORATION

Business Entity Status

CORPORATION IS ACTIVE AND IN GOOD STANDING





CORPORATE DETAILS

Office of the Secretary of State
State of Alabama

INITIATE NEW BROWSE

Corporation

FIC 850-248

Legal Name: Allstate Insurance Company

State Of Inc: Illinois

Qualified...: 10-13-1938

Reg Agent...: COMMISSIONER OF INSURANCE

Prin Address: 20 NORTH WACKER DR
CHICAGO, IL

Nat Of Bus...: FOR CORPORATE DETAILS CONTACT THE INSURANCE DEPT. (334) 269-3550

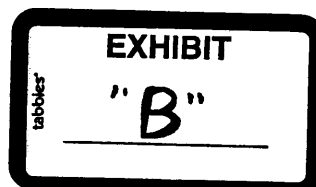
2005

ANNUAL REPORTS

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NCI Safety-Claims Dept

620626032005

Page 7 of 17

**IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA**

CARL BRUCE FANNING and BRONDENA
FANNING,

Plaintiffs,

vs.

NATIONAL CARRIERS; BRUCE NORMAN,
JR.; and ALLSTATE INSURANCE
COMPANY, INC.,

Defendants.

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CASE NO.: CV-05- 2663

2005 OCT 14 PM 3:47

SUMMONS

This service by certified mail of this summons is initiated upon the written request of Plaintiff attorney pursuant to the Alabama Rules of Civil Procedure.

NOTICE TO: **NATIONAL CARRIERS
1501 E. 8TH STREET
LIBERAL, KA 67901**

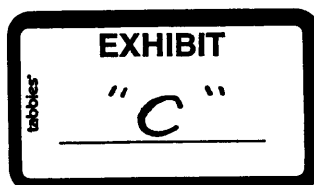
The Complaint which is attached to this summons is important and you must take immediate action to protect your rights. You are required to mail or hand deliver a copy of a written Answer, either admitting or denying each allegation in the Complaint to,

**JULIA A. BEASLEY
BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
POST OFFICE BOX 4160
MONTGOMERY, ALABAMA 36103-4160**

the attorney for the Plaintiff. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN THIRTY (30) DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT AS EVIDENCED BY THE RETURN RECEIPT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT. You must also file the original of your Answer with the Clerk of this Court within a reasonable time afterward.

Melissa Pittman
CIRCUIT CLERK

Dated: 10/24/05



IN THE CIRCUIT COURT OF
MONTGOMERY COUNTY, ALABAMA

CARL BRUCE FANNING and BRONDENA
FANNING, *

Plaintiffs, *

vs. *

NATIONAL CARRIERS; BRUCE NORMAN,
JR.; and ALLSTATE INSURANCE
COMPANY, INC., *

Defendants. *

CASE NO.: CV-05- 2663

2005 OCT 14 PM 3:47

COMPLAINT

Statement of the Parties

1. Plaintiff Carl Bruce Fanning is over the age of 19 years and resides in Montgomery County, Alabama.
2. Plaintiff Brondena Fanning is over the age of 19 years and resides in Montgomery County, Alabama.
3. Defendant National Carriers (hereinafter "National") is a corporation doing business in Montgomery County, Alabama.
4. Defendant Bruce Norman, Jr., is over the age of 19 years and resides in Oklahoma City, Oklahoma.
5. Defendant Allstate Insurance Company, Inc. (hereinafter "Allstate") is a corporation, doing business in Montgomery County, Alabama.

Statement of the Facts

6. On June 17, 2005, Plaintiff Carl Fanning was operating a vehicle on Interstate I-85 North in Montgomery County, Alabama.

7. At said time and place, Defendant Norman was operating a tractor-trailer on Interstate I-85 North, a public road in Montgomery County, Alabama.

8. At said time and place, Defendant National Carriers owned the commercial vehicle operated by Defendant Norman.

9. At said time and place, Defendant Norman was employed by National Carriers.

10. At said time and place, Defendant Norman was acting within the line and scope of his employment with Defendant National Carriers.

11. Defendant Allstate issued a policy of insurance covering the vehicle operated by Carl Fanning, which provided for underinsured motorist benefits to Plaintiffs.

12. At all times material hereto, the policy of insurance with Allstate was in full force and effect.

Count I

13. Plaintiffs reallege paragraphs 1 through 12 of the Complaint as if set out here in full.

14. At said time and place, Defendant Norman failed to keep a proper lookout ahead of him.

15. At said time and place, Defendant Norman followed Plaintiff Carl Fanning's vehicle too close.

16. At said time and place, Defendant Norman operated the commercial truck and trailer in violation of ALA. CODE § 32-5A-89 and in violation of other Rules of the Road.

17. At said time and place, Defendant Norman failed to maintain control of the commercial vehicle.

18. At the aforesaid time and place, Defendant Norman negligently operated the tractor-trailer unit, causing it to collide with the rear of vehicle operated by Carl Fanning, causing it to rotate and being struck by Defendant's truck and trailer several times, and causing Mr. Fanning's vehicle to travel in the opposite direction on I-85 North.

19. As a proximate consequence of Defendant Norman's negligence, Plaintiff Carl Fanning was injured and damaged as follows: he suffered physical pain and will continue to do so in the future; he suffered bodily injuries; he was required to seek medical treatment for his injuries; he was required to undergo neck surgery; he incurred medical expenses and will incur medical expenses in the future; he has lost income and will continue to do so; he suffered mental anguish and will continue to do so in the future; his vehicle was damaged; and he has been otherwise injured and damaged.

WHEREFORE, Plaintiffs demand judgment against Defendants National Carriers and Norman in such an amount of compensatory damages as a jury may award, and costs of this action.

Count II

20. Plaintiffs reallege paragraphs 1 through 12 of the Complaint as if set out here in full.

21. At the aforesaid time and place, Defendant Norman wantonly operated the tractor-trailer unit, causing it to collide with the rear of vehicle operated by Carl Fanning, causing it to rotate and being struck by Defendant's truck and trailer several

times, and causing Mr. Fanning's vehicle to travel in the opposite direction on I-85 North.

22. As a proximate consequence of Defendant Norman's wantonness, Plaintiff Carl Fanning was injured and damaged as alleged in paragraph 19 above.

WHEREFORE, Plaintiffs demand judgment against Defendants National Carriers and Norman in such an amount of compensatory damages as a jury may award; a separate amount of punitive damages; and costs of this action.

COUNT III

23. Plaintiffs reallege paragraphs 1 through 12 of the Complaint as if set out here in full.

24. This Count is based on Respondeat Superior in that at all times material hereto, Defendant Norman, an employee of National Carriers, was acting as agent, employee and/or servant of Defendant National Carriers and was acting within the line and scope of his employment with Defendant National Carriers.

25. In that Defendant Norman, an employee of Defendant National Carriers, was acting within the line and scope of his employment with Defendant National Carriers, Defendant National Carriers is liable for the actions of Defendant Norman and its employees.

WHEREFORE, Plaintiffs demand judgment against Defendant National Carriers in such an amount as a jury may award for compensatory damages; a separate amount for punitive damages; and the costs of this action.

Count IV

26. Plaintiffs reallege paragraphs 1 through 12 of the Complaint as if set out here in full.

27. Plaintiff Brondena Fanning is the wife and marital partner of Plaintiff Carl Fanning.

28. Plaintiff Carl Fanning was permanently injured and damaged as alleged in paragraph 19 above as a result of Defendants Norman and National Carriers' negligence or wantonness.

29. As a proximate consequence of Defendant National Carriers and Norman's negligence or wantonness, Plaintiff Brondena Fanning has lost and will continue to lose the love, affection, and services of her husband, Plaintiff Carl Fanning.

WHEREFORE, Plaintiff Brondena Fanning demands judgment against Defendants Norman and National Carriers in such an amount of damages as a jury may award, and the costs of this action.

Count V

30. Plaintiffs reallege all prior paragraphs of the complaint as if set out here in full.

31. Defendant Allstate is the underinsured motorist insurance carrier for Plaintiff Carl Fanning.

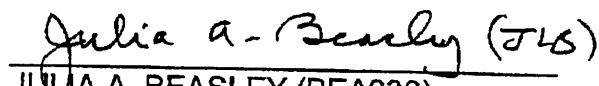
32. Defendant Allstate has received notice of Plaintiffs' claims.

33. The full amount of this insurance policy, plus interest, is due from Defendant Allstate for Plaintiffs' injuries and damages as set forth hereinabove.

34. This count is based upon Code of Alabama § 32-7-23, as amended.

WHEREFORE, Plaintiffs demand judgment against Defendant Allstate for the full amount of insurance under each policy issued by Defendant and applicable hereto, interest, and costs of this action.


JERE L. BEASLEY (BEA020)

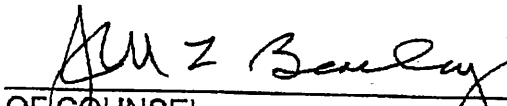

JULIA A. BEASLEY (BEA039)
Attorneys for Plaintiffs

OF COUNSEL:

BEASLEY, ALLEN, CROW,
METHVIN, PORTIS & MILES, P.C.
P.O. Box 4160
Montgomery, AL 36103-4160
(334) 269-2343

JURY DEMAND

PLAINTIFFS HEREBY DEMAND TRIAL BY JURY ON ALL ISSUES OF THIS CAUSE.


OF COUNSEL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CARL BRUCE FANNING and BRONDENA
FANNING,

Plaintiffs,

v.

NATIONAL CARRIERS; BRUCE NORMAN,
JR., and ALLSTATE INSURANCE
COMPANY, INC.

Defendants.

CASE NO.: _____


NOTICE TO PLAINTIFF OF FILING OF NOTICE OF REMOVAL

TO: PLAINTIFFS AND THEIR COUNSEL OF RECORD:

Pursuant to 28 U.S.C. §1446(d), you are hereby notified of the filing of a Notice of Removal in the above-styled cause, removing the same from the Circuit Court of Montgomery County, Alabama, to the United States District Court for the Middle District of Alabama, Northern Division.

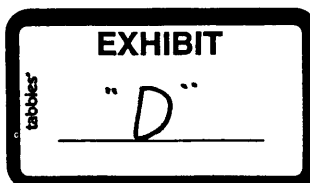
A true and correct copy of said Notice of Removal is attached hereto.

Dated this the 22nd day of November, 2005.


ROBERT C. BLACK, JR. (BLA 063)
Attorney for Defendants
National Carriers, Inc.
And Bruce Norman, Jr.

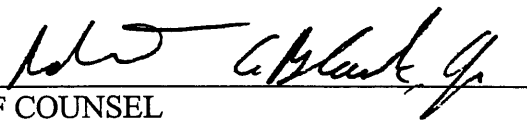
OF COUNSEL:

HILL, HILL, CARTER,
FRANCO, COLE & BLACK, P.C.
425 SOUTH PERRY STREET
POST OFFICE BOX 116
MONTGOMERY, ALABAMA 36101-0116
(334) 834-7600
(334) 832-7419 (telecopier)



CERTIFICATE OF SERVICE

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OF COUNSEL

IN THE CIRCUIT COURT
MONTGOMERY COUNTY, ALABAMA

CARL BRUCE FANNING and BRONDENA
FANNING,

Plaintiffs,

v.

NATIONAL CARRIERS; BRUCE NORMAN,
JR., and ALLSTATE INSURANCE
COMPANY, INC.

Defendants.


CASE NO.: CV-05-2663

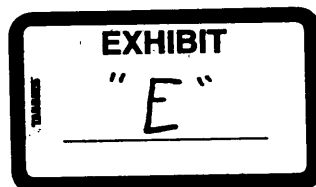
NOTICE OF FILING OF NOTICE OF REMOVAL

To: Hon. Melissa Rittenour
Clerk, Circuit Court of Montgomery County, Alabama
251 South Lawrence Street
Post Office Box 1667
Montgomery, Alabama 36102-1667

Pursuant to 28 U.S.C. §1446(d), the defendants hereby file a true and correct copy of their
Notice of Removal of this cause from this Court to the United States District Court for the Middle
District of Alabama, Northern Division.

Dated this the 22nd day of November, 2005.


ROBERT C. BLACK, JR. (BLA 063)
Attorney for Defendants
National Carriers, Inc.
And Bruce Norman, Jr.



OF COUNSEL:

HILL, HILL, CARTER,
FRANCO, COLE & BLACK, P.C.
425 SOUTH PERRY STREET
POST OFFICE BOX 116
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OF COUNSEL